



PUBLIC NOTICE

Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

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DA 09-1228

Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: June 2, 2009

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Abacus Television Station WPTG-LP, WIIC-LP, WWBP-LP, WWAT-CA, WQVC-CA, WBYD-CA, WBOA-LP, WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA - Request for refund of FY 2003 and 2004 regulatory fees. **Granted** (February 12, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Abacus Television Station WPTG-LP, WIIC-LP, WWBP-LP, WWAT-CA, WQVC-CA, WBYD-CA, WBOA-LP, WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA - Request for refund of FY 2005 regulatory fees. **Granted** (February 12, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Abacus Television Station WPTG-LP, WIIC-LP, WWBP-LP, WWAT-CA, WQVC-CA, WBYD-CA, WBOA-LP, WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA - Request for refund of FY 2007 regulatory fees. **Granted** (February 12, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Asiavision, Inc. Station WIAV-LP - Request for waiver of FY 2008 regulatory fee. **Granted** (February 12, 2009) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995)]

Acquisition, LLC Station KMCC (TV) Request for deferral and waiver of FY 2008 regulatory fee. **Granted** (February 24, 2009) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

Dylan Benefield - Request for waiver of FY 2008 late fee penalty. **Denied** (February 12, 2009) [*See* 47 U.S.C. §159(c)(1)]

Dr. Joseph A. Zavaletta Station KVAW (TV) - Request for waiver of FY 2008 regulatory fee. **Denied** (February 12, 2009) [*See* 47 U.S.C. §159(d); 47 C.F.R. §1.1166]

GHB Radio, Inc. Station WTIIX (AM) - Request for waiver of FY 2008 regulatory fee. **Granted** (February 24, 2009) [*See* Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995)]

Hispanic Christian Community Network, Inc. Station KHFW-LP - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station KLMH-LP - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station K05LU - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station K07YF - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station K09XZ - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station K251E - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station K30IG - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station K461C - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station K48JE - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station K11VO - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [*See* Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station W04DE - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station WGVJ-LP - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station W11CZ - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

Hispanic Christian Community Network, Inc. Station W68DX - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2008, FCC 08-182, released August 8, 2008, at ¶ 76]

KM Television of Flagstaff L.L.C Station KCFG (TV) - Request for waiver of FY 2008 regulatory fee. **Dismissed** (February 12, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Marcus Trone Travenia d/ba MTC Matrixes - Request for waiver of application fee. **Dismissed** (February 11, 2009) [See 47 U.S.C. §158(g)]

Maskina Communications, Inc. - Request for waiver of application fees. **Deny** (February 12, 2009) [See 47 U.S.C. §158(c) (1)]

Mr. Michael Lewis Station K285CP - Request for waiver of FY 2006 regulatory fees. **Granted** (February 12, 2009) [See Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year]

M5 Networks. - Request for FY 08 late fee penalty. **Deny** (February 24, 2009) [See 47 U.S.C. §159(c) (1)]

Peak Communication, Inc. Station KYKV (FM) - Request for Refund of FY 2008 regulatory fee. **Granted** (February 12, 2009) [See Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Report and Order and Further Notice of Proposed Rulemaking, 2008 WL 3318967, ¶76 (FCC 08-182, released Aug. 8, 2008)]

Pinnacle Aviation Station WQEH699 Request for refund of application fee. **Denied** (February 24, 2009) [See 47 U.S.C. §159(d); 47 C.F.R. §1.1166]

Pinnacle Aviation Stations KPIF (TV) and KBEO (TV) - Request for refund of application fee. **Granted** (February 12, 2009) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

Saranac Lake Radio Station W266AP - Request for waiver of FY 2008 regulatory fee. **Granted** (February 26, 2009) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995)]

SATV 10, LLC Station KTRG (TV) Request for waiver of FY 2008 regulatory fee. **Granted** (February 24, 2009) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

FEB 12 2009

OFFICE OF
MANAGING DIRECTOR

Mr. Benjamin Perez
Abacus Television
1801 Columbia Road, N.W.
Suite 101
Washington, D.C. 20009

Re: Abacus Television
FY 2003 and 2004 Regulatory Fees
Fee Control No. RROG-09-00011194

Dear Mr. Perez:

This letter responds to your request dated June 24, 2007 (*Request*), on behalf of Abacus Television (Abacus), for waiver of the fiscal years (FYs) 2003 and 2004 regulatory fees associated with Stations WPTG-LP, WIIC-LP, WWBP-LP, WWAT-CA, WQVC-CA, WBYP-CA, WBOA-LP, WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA (the Stations). Our records reflect that Abacus paid the \$4,015.00 FY 2003 regulatory fees, but not the \$4,235.00 FY 2004 regulatory fees at issue here.¹ For the reasons stated herein, we grant your request.

You recite that Abacus operates in one of the most competitive broadcast television markets in the United States (*i.e.*, Pittsburgh, Pennsylvania), with a market size of 2,233,591 people.² You state that because none of Abacus's Pittsburgh market stations "are carried on either cable or received by satellite homes . . . [, Abacus] primarily serves the . . . approximately 223,360 people that do not subscribe to either cable or [*sic*] satellite services."³ You aver that Abacus's only source of revenue is the "reduced" affiliation fee paid by MTV Network and the "extremely modest" sales commission paid by Shop at Home Network and America's Collectables.⁴

¹ The FY 2003 and 2004 regulatory fee for each station is \$365.00 and \$385.00, respectively.

² *Request* at 2. We note that four of the Stations are not within the Pittsburgh, Pennsylvania market: Stations WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA.

³ *Id.*

⁴ *Id.*

With respect to all the Stations for which waiver is sought, you say that Abacus is able to operate only because of the continued infusion of capital from Benjamin Perez, the company's sole principal.⁵ In separate correspondence, you state that in 2003 and 2004, Abacus "had only one principal [*i.e.*, Mr. Perez] and had no officers[.]"⁶ You say that in 2003 and 2004, Mr. Perez "was paid no salary and received no distributions, dividends, or other benefits from Abacus[.]" and that Abacus's only employees were Mr. Perez and a volunteer helper, and that neither was paid a salary.⁷ You state that Mr. Perez is not reimbursed for many of his expenses and that he does not receive a salary, dividends, or any profit distribution from the company.⁸ You submit Abacus's Profit & Loss statements for the 2003 and 2004 calendar years (*2003 Financial Statement* and *2004 Financial Statement*).⁹

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship."¹⁰ In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals and deductions for depreciation and amortization are considered funds available to pay the fees.

Our review of the record, including Abacus's *2003 Financial Statement* and *2004 Financial Statement*, indicates that Abacus suffered a \$55,565.28 financial loss in calendar year 2003, and a \$55,966.45 financial loss in calendar year 2004, and that there were no deductions attributable to depreciation and amortization, and that no funds were paid to principals in either calendar year. Given that Abacus suffered a financial loss in calendar year 2003, we grant your request for a waiver of the \$4,015.00 FY 2003 regulatory fees. Accordingly, a check made payable to the maker of the original check in payment of the FY 2003 regulatory fee, and drawn in the amount of \$4,015.00, will be sent to you at the earliest practicable time. In addition, given that Abacus suffered a

⁵ *Id.* at 3.

⁶ Email from Benjamin Perez to Joanne Wall at 1 (Jan. 14, 2009).

⁷ *Id.*

⁸ *Id.* at 2.

⁹ *Request, Attachments* (Abacus Television, Profit & Loss, January through December 2003 and Abacus Television, Profit & Loss, January through December 2004).

¹⁰ *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995).

Mr. Benjamin Perez

3.

financial loss in calendar year 2004, we grant your request for a waiver of the \$4,235.00 FY 2004 regulatory fees for the Stations.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Stephens', with a stylized, flowing script.

Mark Stephens
Chief Financial Officer

Before the
 Federal Communications Commission
 Washington, DC 20554

In the matter of:

Waiver of Regulatory Fee for FY 2004 of Abacus Television)
 1801 Columbia Road, N.W., Suite 101, Washington, DC 20009)
 Licensee of WIIC-LP, WPTG-LP, WWBP-LP, WWAT-CA, WTOO-CA)
 WWVW-LP WQVC-CA, WBYD-CA, WSSS-LP, WBOA-LP, WJKF-CA)

To: Anthony Dale, Managing Director

Request for Waiver of Regulatory Fee

Pursuant to §1.1166 of the Rules and Regulations of the Federal Communications Commission, Abacus Television, hereby requests waiver of the regulatory fee for FY 2004, and return of the fee already submitted for FY 2003.

Abacus Television was formed in the late 1980's to early 1990's by Pittsburgh-native Benjamin Perez, the sole owner of Abacus Television, using a network of Low Power Television stations to deliver broadcast programming to the Greater Pittsburgh, PA television market. The first programming used by the LPTV network consisted of the Video Jukebox Network ("The Box"), where a viewer could call a 976 number and play the music video of their choice. On January 10, 2001 Abacus began local programming on Channel 35 (WBYD) with local "Live Auction Television."

In November of 2001, Abacus expanded the network of stations carrying "Live Auction Television", added more local programming, and launched the Abacus Television Network. Abacus Television has arranged its stations into a "cellular television network," consisting of a driver station downtown (WPTG-LP) and the repeater stations fed with the off-air signal of the driver station in all of the outlined communities that make up the Pittsburgh A.D.I. The repeater stations include:

WIIC-LP	Pittsburgh, PA
WWBP-LP	Freedom, PA
WWAT-CA	Uniontown, PA
WQVC-CA	Greensburg, PA
WBYD-CA	Johnstown, PA
WBOA-LP	Kittanning, PA

Abacus Television also operates:

WWVW-LP	Wheeling, WV
WTOO-CA	Altoona, PA
WSSS-LP	Steubenville, OH
WJKF-CA	Jacksonville, FL

Abacus Television is one of the most competitive broadcast television markets within the United States. The market size of Pittsburgh, PA is approximately 2,233,591 people, making it 21st largest television market. Between cable television and direct-to-home satellite subscribership 90% of these homes are "wired" and do not utilize roof top antennas. None of Abacus Television's stations are carried on either cable or received by satellite homes. As a result, Abacus Television primarily serves the universe of approximately 223,360 people that do not subscribe to either cable or satellite services. Abacus Television is an affiliate of Shop at Home and MTV2 Networks. Abacus Television does not sell local or national advertising, because without cable carriage such sales were found to be impossible. Abacus Television's only source of revenue is the affiliation fee paid to it by MTV Network and the sales commission paid to it by Shop at Home Network.

Payment of its 2004 regulatory fees will significantly impact the ability of Abacus Television to provide over the air television broadcast service to the public. Absent cable carriage, the sales generated by the Abacus Network for Shop at Home, and the commission paid as a result, are extremely modest. The affiliation fee paid to Abacus Television Network by MTV2 is also commensurately reduced to reflect Abacus Television serving only the unwired televisions in its market. As a result Abacus Television is cash flow negative. The gross

revenue it receives is insufficient to cover its tower rent, electricity and equipment maintenance costs. Abacus is able to continue operating only because of continued infusion of capital by its owner. Benjamin Perez is the only principle in Abacus Television. He draws no salary, is not reimbursed for many of his expenses, and, because Abacus Television has operated at a loss since its inception, has not received any dividends or profit distribution from his company. He continues to operate Abacus Television in the hope that, with continued format development and the long-shot possibility that LPTV stations will eventually gain Must Carry status, Abacus Television will someday become profitable.

Abacus Television provides its entertainment and home shopping services to the poorest and least mobile television viewers in Pittsburgh – the 10% of Pittsburgh residents that do not pay for cable or satellite services. Payment of the scheduled FCC Regulatory Fees would leave Abacus Television with insufficient funds to pay its tower rent or electricity, forcing Abacus Television to suspend operation. That suspension would deprive (poorer) Pittsburgh residents of one of a very limited number of off-air, free television services. That suspension of service would also very quickly reverse the progress Abacus Television has made to date building its audience and revenue. All of the money invested by Benjamin Perez to cover each years operating deficit would be lost, causing a tremendous financial hardship to this small sole proprietor. Thus, a waiver of the 2004 FCC Regulatory Fees is in the public interest.

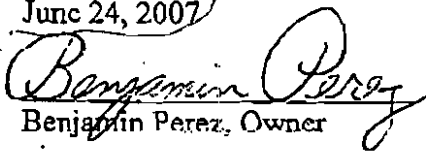
Abacus Television submits its Exhibit 1 and 2, detailed Profit & Loss statements for calendar years 2003 and 2004. In 2003 Abacus Television had an operating deficit of \$55,565. In 2004 Abacus Television had an operating deficit \$55,966. (These operating deficits were covered by cash contributions to the company by Benjamin Perez.) Abacus Television was unable to pay its 2004 Regulatory Fees and seeks reimbursement of its 2003 Regulatory Fees

because it clearly can not afford to pay such fees until its cash flow has grown to the point that it at least covers the day to day operating costs of Abacus Television.

Therefore, for the reasons cited above, Abacus Television hereby requests waiver of the 2004 regulatory fee, and a refund of the 2003 regulatory fee, and in light of the information attached hereto, no fee is provided herewith.

Respectfully submitted,

June 24, 2007


Benjamin Perez, Owner

Abacus Television
1801 Columbia Road, N.W. Suite 101
Washington, DC 20009
Abacuscommco@covad.net
202 462-3680

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

FEB 12 2009

OFFICE OF
MANAGING DIRECTOR

Mr. Benjamin Perez
Abacus Television
1801 Columbia Road, N.W.
Suite 101
Washington, D.C. 20009

Re: Abacus Television
FY 2005 Regulatory Fees
Fee Control No. RROG-09-00011194

Dear Mr. Perez:

This letter responds to your request dated June 24, 2007 (*Request*), on behalf of Abacus Television (Abacus), for waiver of the \$4,345.00 fiscal year (FY) 2005 regulatory fees associated with Stations WPTG-LP, WIIC-LP, WWBP-LP, WWAT-CA, WQVC-CA, WBYD-CA, WBOA-LP, WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA (the Stations). Our records reflect that Abacus has not paid the regulatory fees at issue here.¹ For the reasons stated herein, we grant your request.

You recite that Abacus operates in one of the most competitive broadcast television markets in the United States (*i.e.*, Pittsburgh, Pennsylvania), with a market size of 2,233,591 people.² You state that because none of Abacus's Pittsburgh stations "are carried on either cable or received by satellite homes . . . [, Abacus] primarily serves the . . . approximately 223,360 people that do not subscribe to either cable or [*sic*] satellite services."³ You aver that Abacus's only source of revenue is the "reduced" affiliation fee paid by MTV Network and the "extremely modest" sales commission paid by Shop at Home Network and America's Collectables.⁴

¹ The FY 2005 regulatory fee for each station is \$395.00.

² *Request* at 2. We note that four of the Stations are not within the Pittsburgh, Pennsylvania market: Stations WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA.

³ *Id.*

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With respect to all the Stations for which waiver is sought, you say that Abacus is able to operate only because of the continued infusion of capital from Benjamin Perez, the company's sole principal.⁵ In separate correspondence, you state that Abacus "had only one principal [*i.e.*, Mr. Perez] and had no officers during calendar year 2005."⁶ You say that Mr. Perez "was paid no salary and received no distributions, dividends, or other benefits from Abacus[,]" and that Abacus's only employees in 2005 were Mr. Perez and a volunteer helper, and that neither was paid a salary.⁷ You submit Abacus's profit and loss statement for the 2005 calendar year (*Financial Statement*).⁸

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship."⁹ In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals and deductions for depreciation and amortization are considered funds available to pay the fees.

Our review of the record, including Abacus's *Financial Statement*, indicates that Abacus suffered a \$39,483.94 financial loss in calendar year 2005, that there were no deductions attributable to depreciation and amortization, and that no funds were paid to principals. Given that Abacus suffered a financial loss in calendar year 2005, we grant your request for a waiver of the \$4,345.00 FY 2005 regulatory fees for the Stations.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Chief Financial Officer

⁵ *Id.* at 3.

⁶ Email from Benjamin Perez to Joanne Wall at 1 (Jan. 14, 2009).

⁷ *Id.*

⁸ *Request*, Attachment (Abacus Television, Profit & Loss, January through December 2005).

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Waiver of Regulatory Fee for FY 2005 of Abacus Television)
1801 Columbia Road, N.W., Suite 101, Washington, DC 20009)
Licensee of WIIC-LP, WPTG-LP, WWBP-LP, WWAT-CA, WTOO-CA)
WWVW-LP WQVC-CA, WBYD-CA, WSSS-LP, WBOA-LP, WJKF-CA)

To: Anthony Dale, Managing Director

Request for Waiver of Regulatory Fee

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WWAT-CA Uniontown, PA
WQVC-CA Greensburg, PA
WBVD-CA Johnstown, PA
WBOA-LP Kittanning, PA

Abacus Television also operates:

WWVW-LP Wheeling, WV
WTOO-CA Altoona, PA
WSSS-LP Steubenville, OH
WJKF-CA Jacksonville, FL

Abacus Television is one of the most competitive broadcast television markets within the United States. The market size of Pittsburgh, PA is approximately 2,233,591 people, making it 21st largest television market. Between cable television and direct-to-home satellite subscribership 90% of these homes are "wired" and do not utilize roof top antennas. None of Abacus Television's stations are carried on either cable or received by satellite homes. As a result, Abacus Television primarily serves the universe of approximately 223,360 people that do not subscribe to either cable or satellite services. Abacus Television is an affiliate of Shop at Home, Americas Collectables, and MTV2 Networks. Abacus Television does not sell local or national advertising, because without cable carriage such sales were found to be impossible. Abacus Television's only source of revenue is the affiliation fee paid to it by MTV Network and the sales commission paid to it by Shop at Home Network and America's Collectables.

Payment of its 2005 regulatory fees will significantly impact the ability of Abacus Television to provide over the air television broadcast service to the public. Absent cable carriage, the sales generated by the Abacus Network for Shop at Home and America's Collectables, and the commission paid as a result, are extremely modest. The affiliation fee paid to Abacus Network by MTV2 is also commensurately reduced to reflect Abacus Television serving only the off air televisions in its market. As a result, Abacus Television is cash flow negative. The gross revenue it receives is insufficient to cover its tower rent, electricity and

equipment maintenance costs. Abacus is able to continue operating only because of continued infusion of capital by its owner. Benjamin Perez is the only principle in Abacus Television. He draws no salary, is not reimbursed for many of his expenses, and, because Abacus Television has operated at a loss since its inception, has not received any dividends or profit distribution from his company. He continues to operate Abacus Television in the hope that, with continued format development and the long-shot possibility that LPTV stations will eventually gain Must Carry status, Abacus Television will eventually become profitable.

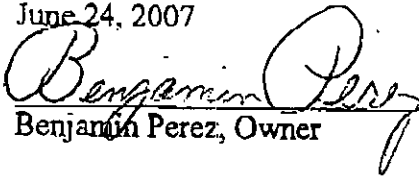
Abacus Television provides its entertainment and home shopping services to the poorest and least mobile television viewers in Pittsburgh – the 10% of Pittsburgh residents that do not pay for cable or satellite services. Payment of the scheduled FCC Regulatory Fees would leave Abacus Television with insufficient funds to pay its tower rent or electricity, forcing Abacus Television to suspend operation. That suspension would deprive (poorer) Pittsburgh residents of one of a very limited number of off-air, free television services. That suspension of service would also very quickly reverse the progress Abacus Television has made to date building its audience and revenue. All of the money invested by Benjamin Perez to cover each years operating deficit would be lost, causing a tremendous financial hardship to this small sole proprietor. Thus, a waiver of the 2005 FCC Regulatory Fees is in the public interest.

Abacus Television submits its Exhibit 1 detailed Profit & Loss statements for calendar year 2005. In 2005 Abacus Television had an operating deficit of \$39,483.94. In 2004 Abacus Television had an operating deficit \$55,966. (These operating deficits were covered by cash contributions to the company by Benjamin Perez.) Abacus Television was unable to pay its 2005 Regulatory Fees because it clearly can not afford to pay such fees until its cash flow has grown to the point that it at least covers the day to day operating costs of Abacus Television.

Therefore, for the reasons cited above, Abacus Television hereby requests waiver of the 2005 regulatory fee and, in light of the information attached hereto, no fee is provided herewith.

Respectfully submitted,

June 24, 2007


Benjamin Perez, Owner

Abacus Television
1801 Columbia Road, N.W. Suite 101
Washington, DC 20009
Abacuscommco@covad.net
202 462-3680

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

FEB 12 2009

OFFICE OF
MANAGING DIRECTOR

Mr. Benjamin Perez
Abacus Television
1801 Columbia Road, N.W.
Suite 101
Washington, D.C. 20009

Re: Abacus Television
FY 2007 Regulatory Fees
Fee Control No. RROG-09-00011194

Dear Mr. Perez:

This letter responds to your request (*Request*), on behalf of Abacus Television (Abacus), for waiver of the \$3,795.00 fiscal year (FY) 2007 regulatory fees associated with Stations WPTG-LP, WIIC-LP, WWBP-LP, WWAT-CA, WQVC-CA, WBYD-CA, WBOA-LP, WWVW-LP, WTOO-CA, WSSS-LP, and WJKF-CA (the Stations). Our records reflect that Abacus has not paid the regulatory fees at issue here.¹ For the reasons stated herein, we grant your request.

You recite that Abacus "has neither the funds . . . nor access to credit . . . to pay its regulatory fees[.]"² You aver that Abacus is a "very small, sole proprietorship owned 100 percent by . . . Benjamin Perez . . . who at the time the 2007 fee payments were due, had no personal saving[s], no pension eligibility, no 401(k) plan and no liquid assets from which he draw [*sic*] the needed funds."³ You assert that Abacus must "immediately apply the revenue it does receive to its overdue tower rent and transmitter electricity accounts . . . to keep its broadcast operations going[.]"⁴ In separate correspondence, you state that Abacus "had only one principal and had no officers during calendar year 2007."⁵ You say that "the only 2007 principal, Benjamin Perez[,] was paid no salary and received no distributions, dividends, or other benefits from Abacus[,]" and that Abacus's only employees in 2007 "were its owner, Benjamin Perez and Debra [*sic*] Goodworth, his part[-]time helper . . . [, and that n]either . . . were [*sic*] paid any salary for the services

¹ The FY 2007 regulatory fee for each station is \$345.00.

² *Request* at 1.

³ *Id.* at 2-3.

⁴ *Id.* at 2.

⁵ Email from Debora Goodworth to Joanne Wall at 1 (Jan. 12, 2009).

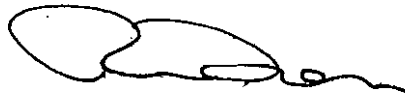
performed."⁶ You submit Abacus's profit and loss statement for the 2007 calendar year (*Financial Statement*).⁷

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship."⁸ In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals and deductions for depreciation and amortization are considered funds available to pay the fees.

Our review of the record, including Abacus's *Financial Statement*, indicates that Abacus suffered a \$8,516.88 financial loss in calendar year 2007, that there were no deductions attributable to depreciation and amortization, and that no funds were paid to principals. Given that Abacus suffered a financial loss in calendar year 2007, we grant your request for a waiver of the \$3,795.00 FY 2007 regulatory fees for the Stations.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens
Chief Financial Officer

⁶ *Id.*

⁷ *Request*, Attachment (Abacus Television, Profit & Loss, January through December 2007).

⁸ *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995).

~~RR06-00011194~~
RR06-09-00011194

Before the
Federal Communications Commission
Washington, DC 20554

In the matter of:

Waiver of Regulatory Fee for FY 2007 of Abacus Television)
1801 Columbia Road, N.W., Suite 101, Washington, DC 20009)
Licensee of ~~WICB-LP~~, ~~WPTG-LP~~, ~~WWBT-LP~~, ~~WWAT-CA~~, ~~WTOO-CA~~)
~~WWWW-LP~~, ~~WQMG-CA~~, ~~WBYD-CA~~, ~~WSSS-LP~~, ~~WBOA-LP~~, ~~WJKF-CA~~)

To: Anthony Dale, Managing Director

Petition for Deferral of Regulatory Fees Until After a Ruling
On Petitioner's Regulatory Fee Waiver Request for 2007

Pursuant to §1.1166(c) of the Rules and Regulations of the Federal Communications Commission, Abacus Television ("Petitioner"), hereby requests waiver of the requirement that any petition for waiver of the regulatory fee be accompanied by the required fee. This waiver is requested, because Petitioner has neither the funds on hand nor access to credit with which to pay its regulatory fees, even if those fees were ultimately refunded. Instead, Petitioner respectfully requests that payment of its regulatory fees for 2007 be deferred until after the Managing Director has considered and ruled on the Request for Waiver of Regulatory Fee filed simultaneously with the instant Petition. This deferral is appropriate for the reasons stated below.

Abacus Television is very small, sole proprietorship owned 100% by a single owner named Benjamin Perez. As the Profit and Loss Statements appended to the Request for Waiver of Regulatory Fee, attached hereto and incorporated by reference, documents, Petitioner had negative Net Income as of November 1, 2007 (-3,478.45) and will finish the year with an even larger negative Net Income. Benjamin Perez, its owner,

is self employed as a communications consultant (legal and engineering). Petitioner was able to sustain its broadcast operations only because Benjamin Perez accumulated personal debt and diverted earnings from his consulting practice and used those funds to pay Petitioner's short term operating expenses. This continuing "capitalization" of Abacus Television in and of itself has been a hardship on Benjamin Perez, who at the time the 2007 fee payments were due, had no personal saving, no pension eligibility, no 401(k) plan and no liquid assets from which he draw the needed funds.

Abacus Television has to immediately apply the revenue it does receive to its overdue tower rent and transmitter electricity accounts in order to keep its broadcast operations going, leaving it with no funds with which to pay its regulatory fees when they were due. Diverting these operating funds from paying its monthly utility to the payment of its regulatory fees would work an extreme hardship on Petitioner. Both its electric utility companies and its tower lessors immediately threaten Petitioner with termination of service when a monthly payment is late, because Petitioner's poor financial condition has caused it to fall into a "slow pay" credit status. As a result, its creditors are extremely intolerant of any missed payments. If Petitioner thus let itself be forced off the air, it would immediately loose the off air audience it has so painfully captured, as well as likely losing its most desirable programming formats that are coveted by other, cable carried TV licensees in its markets. The viewers loosing Petitioner's niche service are largely people dependant on off air television service, because they cannot afford cable television. That lost service would not be replaced, because of the ongoing FCC freeze on applications for new LPTV stations in any urbanized parts of the country.

Petitioner respectfully requests that the payment of the overdue regulatory fees be

deferred. Petitioner believes that the fee waiver request filed today will likely be granted, making the hardships caused by requiring payment to accompany said waiver request unnecessary and even punitive. Furthermore, in the unlikely event that the fee waiver is denied Petitioner will need a significant period of time to make the programming format changes, achieve the reductions in its operating costs, or even sell one or more of its facilities, in order to raise the funds necessary to pay the fees. In that case the fee deferral will allow Petitioner to continue providing its broadcast programming services (including children's programming, locally produced-locally originated programming, and Emergency Alert Services) to the off-air television dependent citizens now served by Petitioner's stations.

WHEREFORE, for the foregoing reasons, Abacus Television respectfully requests that the Commission defer payment of its overdue regulatory fee until it has ruled on its Regulatory Fee Waiver request or until such time as Abacus Television can make those payments without having to suspend the transmission of its programming.

Respectfully submitted,

Abacus Television

/S/ Benjamin Perez

Benjamin Perez, Its Owner

Abacus Television
1801 Columbia Road, N.W., Suite 101
Washington, DC 20009
Abacuscommco@covad.net

Phone: 202 462 3680

November 6, 20007

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FEB 12 2009

✓ OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert
The Law Office of Dan J. Alpert
2120 N. 21st Road
Arlington, VA 22201

Re: Station WIAV-LP
Washington, D.C.
FY 2008 Regulatory Fee
Fee Control No. 0809079084883314

Dear Mr. Alpert:

This is in response to your request filed October 31, 2008 (*Request*), on behalf of Asiavision, Inc. (Asiavision), licensee of Station WIAV-LP (the station) for a waiver of the Fiscal Year (FY) 2008 regulatory fee. Our records reflect that you have paid the \$365.00 FY 2008 fee for the station. For the reasons stated herein, we grant your request.

You state that the station currently is dark.¹ In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 (1995) (*Reconsideration Order*), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.²

Our records reflect that the Commission's Media Bureau granted Asiavision's request for special temporary authority (STA) for the station to remain silent from September 15, 2008, to March 15, 2009.³ Because the station was not operating at the time the FY 2008 regulatory fee was due on September 25, 2008, we grant your request for waiver of the FY 2008 regulatory fee.

¹ *Request* at 1.

² See *Reconsideration Order* at 12762 ("broadcast stations which are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Rules.").

³ See Letter from Hossein Hashemzadeh, Media Bureau, to Asiavision, Inc. (Oct. 27, 2008).


Dan J. Alpert

2.

A check made payable to the maker of the original check, and drawn in the amount of \$365.00, will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Stephens', with a stylized, elongated flourish extending to the right.

 Mark Stephens
Chief Financial Officer

0809079084883314 OMD

The Law Office of

Dan J. Alpert

2120 N. 21st Rd.
Arlington, VA 22201
DJA@COMMLAW.TV

11201

(703) 243-8690

(703) 243-8692 (FAX)

October 31, 2008

RECEIVED - FCC

OCT 31 2008

Federal Communications Commission
Bureau / Office

Mr. Anthony Dale
Managing Director
Federal Communications Commission
445 12th St. S.W.
Washington, DC 20554

Re: Station WIAV-LP
Washington, DC
Facility No. 2962

Dear Mr. Dale:

Asiavision, Inc., by its attorney, hereby requests a waiver and refund of its 2008 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waiver of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

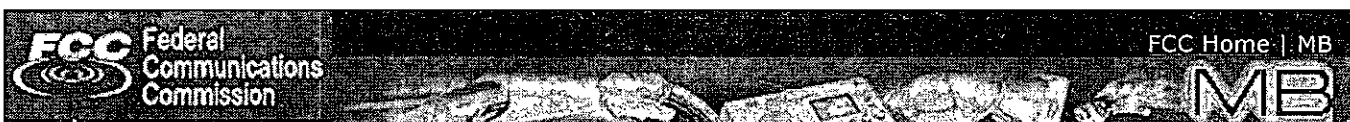
Asiavision, Inc. is licensee of Station WIAV-LP, Washington, DC. The station currently is dark. See Attachment. Accordingly, a waiver and refund of the \$365.00 2008 Annual Regulatory Fee that has been paid is appropriate.

WHEREFORE, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

Counsel for Asiavision, Inc.



Application Search Details

FCC> Media Bureau> MB-CDBS> CDBS Public Access> Application Search

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Application Search Details	
File Number:	BLSTA-20081024AFC
Call Sign:	WIAV-LP
Facility Id:	2962
FRN:	0004336624
Applicant Name:	ASIAVISION, INC.
Frequency:	
Channel:	
Community of License:	WASHINGTON, DC
Silent Since:	09/15/2008
Silent Reason:	FINANCIAL
Application Type:	REMAIN SILENT AUTHORITY
Status:	GRANTED
Status Date:	10/27/2008
Expiration Date:	03/15/2009
Tolling Code:	
Application Service:	TX
Disposed Date:	10/27/2008
Accepted Date:	10/27/2008
Last Public Notice:	
Last Report Number:	
Authorization	Authorization not available
Legal Actions	View Legal Actions
PN Comment	Public Notice Comment
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Please send comments via standard mail to the Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street, S.W., Washington, D.C., 20554. Questions can also be answered by calling the FCC's National Call Center, toll free, at 1-888-Call FCC (1-888-225-5322).

Federal Communications Commission
445 12th Street SW
Washington, DC 20554
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